

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KELCI STRINGER,
individually, as representative of the
Estate of Korey Stringer, and on behalf of a
class of similarly situated persons,

Plaintiff,

v.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

) CASE NO. C2 03 665

) JUDGE HOLSCHUH

) Magistrate Judge Abel

) **JOINT ANSWER OF DEFENDANTS ALL**
) **AMERICAN SPORTS CORPORATION**
) **AND RIDDELL, INC. TO PLAINTIFF'S**
) **COMPLAINT**

) **(Jury Demand Endorsed Hereon)**

)

Defendants All American Sports Corporation (incorrectly denominated in the Complaint as "All American Sports Corp.") and Riddell, Inc. (incorrectly denominated in the Complaint as "Riddell, Inc. also doing business as Riddell Sports Group, Inc.") (hereinafter collectively "Riddell/All American"), by and through undersigned counsel, for their joint answer to the allegations and averments set forth in plaintiff's Complaint, state as follows:

1. Riddell/All American denies the allegations contained in Paragraph 1 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth.

2. Riddell/All American denies the allegations contained in Paragraph 2 of the Complaint to the extent that they suggest or state that Riddell/All American equipment is defective or unsafe in any way that contributed to Korey Stringer's death. The remaining

allegations contained in Paragraph 2 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering only, Riddell/All American denies the remaining allegations contained in Paragraph 2 of the Complaint.

3. Riddell/All American denies that its equipment created an unreasonable risk of harm to Korey Stringer or any other football player. Riddell/All American denies the allegations concerning plaintiff's motivation for bringing this lawsuit for want of knowledge or information sufficient to form a belief as to their truth. The remaining allegations relate to defendants other than Riddell/All American, but for the limited purpose of answering only, Riddell/All American denies the remaining allegations contained in Paragraph 3 of the Complaint.

4. Riddell/All American admits that plaintiff's Complaint seeks money damages and requests injunctive relief. Riddell/All American denies the remaining allegations contained in Paragraph 4 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth.

5. Riddell/All American denies the allegations contained in Paragraph 5 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth. Riddell/All American specifically denies that this lawsuit states a proper class action under the Federal Rules of Civil Procedure.

6. The allegations contained in Paragraph 6 of the Complaint relate to defendants other than Riddell/All American, but for the limited purposes of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

7. Riddell/All American states that the allegations contained in Paragraph 7 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of

answering only, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

8. Riddell/All American states that the allegations contained in Paragraph 8 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering only, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

9. Defendant All American Sports Corporation admits that it is a Delaware corporation with its principal place of business in Ohio. Riddell/All American admits that it produces football equipment that is used by some NFL players. Further answering, Riddell/All American states that Riddell, Inc. is an Illinois corporation with its principal place of business in Chicago. The defendants other than All American Sports Corporation and Riddell, Inc. that are referenced in Paragraph 9 of the Complaint no longer exist as denominated and are not proper defendants in this case. Riddell/All American admits that All American Sports Corporation is subject to personal jurisdiction in this judicial district. To the extent the remaining allegations contained in Paragraph 9 of the Complaint require a response from these answering defendants, for the limited purpose of answering, those allegations are denied.

10. Riddell/All American denies the allegations contained in Paragraph 10 of the Complaint.

11. Riddell/All American denies the allegations contained in Paragraph 11 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth.

12. Riddell/All American states that the allegations contained in Paragraph 12 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

13. Riddell/All American states that the allegations contained in Paragraph 13 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

14. To the extent that the allegations contained in Paragraph 14 of the Complaint relate to Riddell/All American, they are denied. Riddell/All American states that the allegations contained in Paragraph 14 that apply to defendants other than Riddell/All American are, for the limited purpose of answering, denied for want of knowledge or information sufficient to form a belief as to their truth.

15. To the extent that the allegations in Paragraph 15 relate to Riddell/All American, they are denied. Riddell/All American specifically denies that its products increase the risk of injury to people that use them properly. Riddell/All American states that the allegations in Paragraph 15 that relate to defendants other than Riddell/All American are, for the limited purpose of answering, denied for want of knowledge or information sufficient to form a belief as to their truth.

16. Riddell/All American states that the allegations contained in Paragraph 16 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

17. Riddell/All American states that the allegations contained in Paragraph 17 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

18. Riddell/All American states that the allegations contained in Paragraph 18 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

19. Riddell/All American states that the allegations contained in Paragraph 19 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

20. Riddell/All American states that the allegations contained in Paragraph 20 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

21. Riddell/All American specifically denies that its equipment is defective. Riddell/All American states that the majority of the allegations contained in Paragraph 21 and subparts a through j thereof relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies those allegations for lack of knowledge or information sufficient to form a belief as to their truth. To the extent that the allegations contained in Paragraph 21 and subparts a through j thereof state allegations against Riddell/All American, those allegations are denied.

22. Riddell/All American denies the allegations contained in Paragraph 22 of the Complaint.

23. Riddell/All American denies the allegations contained in Paragraph 23 of the Complaint.

24. Riddell/All American denies the allegations contained in the first Paragraph numbered 24 of the Complaint.

24. Riddell/All American denies the allegations contained in the second Paragraph numbered 24 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth. Further answering, Riddell/All American denies that the Complaint states a proper class action under the Federal Rules of Civil Procedure.

25. Riddell/All American denies the allegations contained in Paragraph 25 of the Complaint.

26. Riddell/All American states that the allegations contained in Paragraph 26 of the Complaint, and subparts a through l thereof, state legal conclusions and that no response is required. To the extent a response is required from Riddell/All American, Riddell/All American denies these allegations. Riddell/All American specifically denies that its equipment is defective.

27. Riddell/All American denies the allegations contained in Paragraph 27 of the Complaint.

28. Riddell/All American denies the allegations contained in Paragraph 28 of the Complaint.

29. Riddell/All American realleges and reavers each and every admission and denial hereinbefore set forth as they may relate to the allegations and averments incorporated by reference in Paragraph 29 of the Complaint.

30. Riddell/All American states that the allegations contained in Paragraph 30 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

31. Riddell/All American states that the allegations contained in Paragraph 31 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

32. Riddell/All American states that the allegations contained in Paragraph 32 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

33. Riddell/All American states that the allegations contained in Paragraph 33 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

34. Riddell/All American states that the allegations contained in Paragraph 34 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

35. Riddell/All American realleges and reavers each and every admission and denial hereinbefore set forth as they may relate to the allegations and averments incorporated by reference in Paragraph 35 of the Complaint.

36. Riddell/All American states that the allegations contained in Paragraph 36 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies the allegations contained in Paragraph 36 for want of knowledge or information sufficient to form a belief as to their truth.

37. Riddell/All American states that the allegations contained in Paragraph 37 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

38. Riddell/All American denies the allegations of Paragraph 38 of the Complaint for want of knowledge or information sufficient to form a belief as to their truth.

39. Riddell/All American states that the allegations contained in Paragraph 39 of the Complaint relate to defendants other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth.

40. Riddell/All American states that the allegations contained in Paragraph 40 of the Complaint relate to defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations for want of knowledge or information sufficient to form a belief as to their truth. Riddell/All American specifically denies that its equipment creates an unreasonable risk of injury when used properly.

41. Riddell/All American states that the allegations contained in Paragraph 41 of the Complaint relate to a defendant other than Riddell/All American, and for the limited purposes of answering, Riddell/All American denies these allegations.

42. Riddell/All American states that the allegations contained in Paragraph 42 of the Complaint relate to a defendant other than Riddell/All American, and for the limited purpose of answering, Riddell/All American denies these allegations.

43. Riddell/All American states that the allegations contained in Paragraph 43 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, these allegations are denied.

44. Riddell/All American realleges and reavers each and every admission and denial hereinbefore set forth as they may relate to the allegations and averments incorporated by reference in Paragraph 44 of the Complaint.

45. Riddell/All American denies the allegations contained in Paragraph 45 of the Complaint.

46. Riddell/All American denies the allegations contained in Paragraph 46 of the Complaint.

47. Riddell/All American denies the allegations contained in Paragraph 47 of the Complaint.

48. Riddell/All American denies the allegations contained in Paragraph 48 of the Complaint.

49. Riddell/All American denies the allegations contained in Paragraph 49 of the Complaint.

50. Riddell/All American denies the allegations contained in Paragraph 50 of the Complaint.

51. Riddell/All American denies the allegations contained in Paragraph 51 of the Complaint.

52. Riddell/All American denies the allegations contained in Paragraph 52 of the Complaint.

53. Riddell/All American denies the allegations contained in Paragraph 53 of the Complaint.

54. Riddell/All American denies the allegations contained in Paragraph 54 of the Complaint.

55. Riddell/All American denies the allegations contained in Paragraph 55 of the Complaint.

56. Riddell/All American denies the allegations contained in Paragraph 56 of the Complaint.

57. Riddell/All American denies the allegations contained in Paragraph 57 of the Complaint.

58. Riddell/All American denies the allegations contained in Paragraph 58 of the Complaint.

59. Riddell/All American denies the allegations contained in Paragraph 59 of the Complaint.

60. Riddell/All American denies the allegations contained in Paragraph 60 of the Complaint.

61. Riddell/All American denies the allegations contained in Paragraph 61 of the Complaint.

62. Riddell/All American denies the allegations contained in Paragraph 62 of the Complaint.

63. Riddell/All American denies the allegations contained in Paragraph 63 of the Complaint.

64. Riddell/All American denies the allegations contained in Paragraph 64 of the Complaint.

65. Riddell/All American realleges and reavers each and every admission and denial hereinbefore set forth as they may relate to the allegations and averments incorporated by reference in Paragraph 65 of the Complaint.

66. Riddell/All American states that the allegations contained in Paragraph 66 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations. Riddell/All American specifically denies that its products are defective.

67. Riddell/All American states that the allegations contained in Paragraph 67 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations. Riddell/All American specifically denies that its products are defective.

68. Riddell/All American states that the allegations contained in Paragraph 68 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

69. Riddell/All American states that the allegations contained in Paragraph 69 of the Complaint relate to a defendant other than Riddell/All American, but for the limited purpose of answering, Riddell/All American denies these allegations.

70. Riddell/All American realleges and reavers each and every admission and denial hereinbefore set forth as they may relate to the allegations and averments incorporated by reference in Paragraph 70 of the Complaint.

71. To the extent the allegations contained in Paragraph 71 of the Complaint are applicable to Riddell/All American, the allegations are denied. Riddell/All American specifically denies that its equipment is defective.

72. To the extent the allegations contained in Paragraph 72 of the Complaint relate to Riddell/All American, they are denied. Riddell/All American specifically denies that its equipment is defective, and specifically denies that plaintiff is entitled to any injunctive relief whatsoever.

Riddell/All American specifically controverts plaintiff's prayer for relief and all subparts thereof.

ADDITIONAL DEFENSES

73. Plaintiff's Complaint fails to state a claim against Riddell/All American upon which relief can be granted.

74. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

75. The Riddell/All American equipment at issue was formulated, designed, manufactured and distributed in accordance with the state of the art at the time the products were manufactured and distributed.

76. Plaintiff's claims are barred, in whole or in part, by application of comments *j* and *k* to the Restatement (2d) of Torts, § 402A.

77. If plaintiff experienced any of the injuries, losses and damages alleged in plaintiff's Complaint, then said injuries, losses and damages were a direct and proximate result of product misuse or abuse.

78. To the extent that plaintiff's complaint is governed by the Ohio product liability statute (Ohio Revised Code §§ 2307.71 *et seq.*), Riddell/All American asserts all allowable defenses under said statute.

79. Plaintiff's claims against Riddell/All American are barred by the doctrines of superseding and/or intervening cause, and any action on the part of this answering defendant was not the proximate and/or competent producing cause of plaintiff's alleged injuries.

80. Plaintiff's alleged injuries and losses, if any, were caused in whole or in part by the acts or omissions of others.

81. If plaintiff sustained any of the injuries or losses alleged in the Complaint, such injuries or losses may have been caused in whole or in part, or may have been contributed to, by plaintiff's or decedent's own culpable conduct, intentional acts, contributory negligence,

assumption of the risk (express and/or implied), or want of care. Plaintiff's recovery, if any, is barred and/or should be reduced by common law or applicable statute.

82. Plaintiff's claims are barred by the sophisticated user doctrine.

83. If plaintiff or the decedent experienced any of the injuries, losses and damages alleged in the Complaint, then said injuries, losses and damages were due to a pre-existing and/or unrelated medical condition and not any act or omission on the part of Riddell/All American.

84. To the extent plaintiff relies on any theory of breach of warranty, such claims are barred by applicable law, as plaintiff lacks privity with Riddell/All American. Further to the extent they rely on breach of warranty, plaintiff's claims are barred for failure of plaintiff to give timely notice to Riddell/All American of any alleged breach of warranty. Riddell/All American further specifically pleads all affirmative defenses under the Uniform Commercial Code, as adopted in the State of Ohio, and/or any other state whose law is deemed to apply in this case.

85. Plaintiff's claims are barred in whole or in part by the statute of frauds.

86. Plaintiff's claims are barred by assumption of the risk.

87. Plaintiff has failed to join indispensable parties pursuant to Rule 19 of the Federal Rules of Civil Procedure.

88. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, laches and estoppel.

89. Plaintiff's proposed class action is barred because this action is not a proper class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

90. Plaintiff's proposed class action is barred because the named plaintiff is not an adequate representative of the alleged class she seeks to represent.

91. Plaintiff's class action fails because joinder of all potential class members is practicable.

92. Plaintiff's class action fails because to the extent that there are questions of law or fact common to members of the purported class, those common questions do not predominate over factual and legal questions that affect only individual members.

93. Plaintiff's claims are barred by the doctrine of *res judicata* and/or collateral estoppel.

94. This Court lacks subject matter jurisdiction over plaintiff's claims.

95. Awarding punitive damages in favor of plaintiff against the answering defendants under the facts and circumstances of this case would constitute the imposition of an excessive fine in contravention of Amendment VIII of the United States Constitution and/or in contravention of the Constitution of the State of Ohio.

96. Plaintiffs may not recover punitive damages against the answering defendants because the amount of punishment is increased by the answering defendants' wealth, in violation of the due process clause of Amendments V and XIV of the United States Constitution and/or the equivalent provisions of the Constitution of the State of Ohio.

97. Punitive damages violate the due process clause of the V and XIV Amendments of the United States Constitution and/or the equivalent provisions of the Constitution of the State of Ohio because a jury can award punitive damages without complying with legally sufficient standards.

98. Plaintiffs may not recover punitive damages against the answering defendants because the amount of punishment is increased by the answering defendants' wealth generated in states other than Ohio, in violation of principals of federalism set forth under Amendment X of the United States Constitution, and/or the equivalent provisions of the Constitutions of the State of Ohio.

99. Plaintiffs' claims for punitive damages are barred pursuant to Ohio Revised Code § 2307.80 and/or other punitive damage limitations in the Ohio Revised Code.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, defendants All American Sports Corporation and Riddell, Inc. demand a trial by jury on all issues so triable.

WHEREFORE, having fully answered, defendants All American Sports Corporation and Riddell, Inc. pray that plaintiff's Complaint be denied and dismissed, and that it may go hence with its costs.

Respectfully submitted,

/s/ Robert C. Tucker

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Attorneys for Defendants

All American Sports Corporation

and Riddell, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing Joint Answer of Defendants All American Sports Corporation and Riddell, Inc. to Plaintiff's Complaint has been sent this 27th day of October, 2003, by electronic filing and by regular U.S. mail, postage prepaid, to:

Stanley M. Chesley, Esq., Trial Attorney. *Attorneys for Plaintiff*
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/s/ Robert C. Tucker
One of the Attorneys for Defendants
All American Sports Corporation
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